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Telephone Conference

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

12 CR 185 (LAP)

5 JEREMY HAMMOND,

6 Defendant.

7 -----x

8 New York, N.Y.
9 November 28, 2012
11:04 a.m.

10 Before:

11 HON. LORETTA A. PRESKA,

12 District Judge

13
14 APPEARANCES (VIA TELEPHONE)

15 PREET BHARARA,

16 United States Attorney for the
Southern District of New York

17 ROSEMARY NIDIRY

THOMAS BROWN

18 Assistant United States Attorney

19 ELIZABETH FINK

20 Attorney for Defendant

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1 (In chambers; via telephone conference)

2 THE COURT: Good morning, ladies and gentlemen.

3 MS. FINK: Good morning, your Honor.

4 THE COURT: Miss Fink, is that you?

5 MS. FINK: Yes.

6 THE COURT: We have a court reporter. And who is on
7 for the government?

8 MS. NIDIRY: Rosemary Nidiry and Thomas Brown.

9 THE COURT: Okay. Thank you. Miss Fink, I think this
10 is your dime.

11 MS. FINK: Your Honor, I believe on Thanksgiving
12 evening or on Friday morning, I opened up an e-mail from a
13 woman who I met actually in court on the Tuesday bail hearing,
14 who is a reporter at Fox News. And she sent me an e-mail with
15 a link to an anonymous site, which has -- I'm going to be in
16 court first thing tomorrow morning, and I can bring the Court
17 all of this. I tried to e-mail it to the government.

18 I immediately let the government know, but they
19 couldn't click on the link. And the link is a list of all of
20 the people whose accounts were hacked, who were Stratfor
21 subscribers, and one of them was Thomas J. Kavalier, who I
22 believe is your husband.

23 THE COURT: He is my husband.

24 MS. FINK: Yes. And his e-mail is at Cahill, Gordon.

25 THE COURT: And?

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1 MS. FINK: His Cahill Gordon e-mail,
2 Kavalier@CahillGordon. We're in the process of -- I immediately
3 called Miss Nidiry, and I communicated the question. I don't
4 know where -- the question of investigating, trying to find out
5 more information about the hack. We believe, we're not sure,
6 and the government I think is also finding information out,
7 that all of his information was put on the Internet, all the
8 Stratfor information, the credit card numbers, right, whatever
9 he gave to Stratford in the original thing, whatever it is, I
10 don't know. It was turned over to WikiLeaks, and I think it's
11 already been disseminated, but we don't know that.

12 THE COURT: Okay. Anything else?

13 MS. FINK: Well, I don't know, really, what to do
14 about this. Would the Court like to see what I got sent by Fox
15 News?

16 THE COURT: Well, let me just say this, does the
17 government have any comments?

18 MS. NIDIRY: Yes, just briefly. It's Rosemary Nidiry.
19 First of all, with regard to the information that Miss Fink
20 discussed being disseminated, we have still -- we haven't
21 finished our investigation into precisely how much material was
22 stolen from Stratfor regarding your husband, and so we haven't
23 arrived at a final position.

24 But we don't have any reason to believe that, at this
25 point, there's anything other than a Cahill Gordon e-mail

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1 address, which we believe is a public address. It's,
2 obviously, a publicly available address that was disseminated,
3 but we're still looking into that.

4 But based on what we know now, we conveyed to
5 Miss Fink. We expect that she file a submission for your
6 Honor's recusal, as she's indicated that she's inclined to do.
7 We will file a strong opposition. Based on what we have, we
8 don't see a basis for it.

9 THE COURT: Miss Fink?

10 MS. FINK: Your Honor, I'd just like you to look at
11 the e-mail I got and decide what you think would be the best
12 course.

13 THE COURT: All right. No. 1, anytime you feel you
14 have a motion you want to make, subject to the usual Rule 11
15 constraints, feel very free to make it.

16 MS. FINK: Well, you know --

17 THE COURT: No. 2, my information is that the only
18 thing that's out there is my husband's e-mail address, which
19 is, in fact, a public address, publicly available e-mail
20 address. My information is he is not a client of Stratfor.
21 Stratfor is not a client of the firm's.

22 I am aware of no hack into his personal information.
23 But you do as you are best advised, whatever you want to do.
24 You know how to make a motion.

25 MS. FINK: Yes, Judge, and -- but I don't like to make

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1 motions unless I check it with the Court, and especially like
2 this because I had a similar situation with Judge Keenan, and
3 what I did was it -- this was a sensitive question -- was just
4 inform him and show him what the information was, which caused
5 him to reassign the case and nothing was done officially. That
6 was what happened there, and, you know, a good resolution to
7 the case for us, and no one had a hearing.

8 There's a lot of publicity around this case. Now, a
9 lot of calling -- I'm not a press person.

10 THE COURT: Okay. Well, I'm just saying, if you have
11 a motion, make it, but I am also giving you the benefit of my
12 best information.

13 MS. FINK: Okay. Let me show you what I have. Okay?
14 Which I will drop at chambers probably before my plea in front
15 of -- my arrangement in front of Judge Daniels tomorrow. And
16 if we are going to -- we are investigating and seeing what we
17 can find out. And if we are going to move, we will move on
18 Monday.

19 MR. BROWN: Liz, this is Thomas Brown. I apologize,
20 Judge. Liz, if you wouldn't mind giving us a copy when you
21 drop it off for the Court?

22 MS. FINK: Absolutely. I'll drop it off on the 5th
23 floor.

24 THE COURT: And, Miss Fink, I's assuming you are
25 waiving Mr. Hammond's presence for the purpose of this

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1 conversation?

2 MS. FINK: Yes, your Honor.

3 THE COURT: All right. Anything else?

4 MS. NIDIRY: No, your Honor. Nothing further from the
5 government.

6 MS. FINK: Okay. Judge, I'll be in chambers tomorrow.

7 THE COURT: Thank you. Good morning.

8 MS. FINK: All right. Thank you.

9 (Adjourned)

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